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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

MEMO ENDORSED

The FTC's request to seal portions of its letter is granted. SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: November 3, 2023
New York, New York

November 3, 2023

The Honorable Edgardo Ramos, U.S.D.J.
United States District Court for the Southern District of New York
40 Foley Square
New York, New York 10007

RE: FTC v. IQVIA Holdings Inc. and Propel Media, Inc., Case No.: 1:23-cv-6188-ER

Dear Judge Ramos:

Pursuant to this Court's Rule of Individual Practice 3(ii) and Paragraph 10 of the Amended Protective Order, ECF No. 153 (the "Amended Protective Order"), the Federal Trade Commission ("FTC") respectfully submits this letter-motion seeking an Order sealing portions of the FTC's response to Defendants' Letter Motion for Conference re: Disclosure of Confidential Information to Designated In-House Counsel (ECF Nos. 180-82).

The limited proposed redactions are consistent with precedent in the Second Circuit and this District concerning sealing. Pursuant to the Second Circuit's three-step process, courts first assess whether the documents at issue are "judicial documents" of the type relevant to the performance of the judicial function and useful in the judicial process. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). If so, courts assess the weight of the presumption of public access to the documents, and then balance competing considerations. *Id.* at 119–20. Competing interests include "the privacy interests of those resisting disclosure." *Id.* at 120 (quoting *U.S. v. Amodeo*, 71 F.3d 1044, 1049 (2d Cir. 1995)).

Here, while the FTC's letter is a judicial document, the presumption of public access is of less weight where the party seeks only to seal information that has already been designated confidential. That is true here. Paragraph 10 of the Amended Protective Order requires that, when filing materials that contain Confidential Information, "the Court shall be so informed by the Party filing such papers, and such papers shall be filed under seal." The FTC's letter contains nonpublic information such as deposition quotes that have been designated confidential.

The FTC has also prepared a redacted version of its letter, with redactions limited to the information designated as Confidential Information, which will be filed publicly. To comply with the Amended Protective Order, the FTC respectfully requests that this letter-motion be granted in its entirety and an Order be issued sealing portions of its letter.

Letter to Judge Ramos

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Sincerely,

/s/ Jennifer Fleury

Jennifer Fleury

*Counsel for Plaintiff Federal Trade
Commission*